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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,000	03/05/2002	Yukio Ozeki	034822-0102	4443

22428 7590 03/09/2004

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EXAMINER

FORD, JOHN K

ART UNIT PAPER NUMBER

3753

DATE MAILED: 03/09/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/088,000

Applicant(s)

Ozeki et al. <sup>m</sup>

Examiner

FORD

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12-8-03
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 7-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6, 11-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6
- 18) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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Applicant's election of Figures 1-2B (first species), without traverse, is acknowledged. Claims 1 – 6 and 11 – 15 have been identified by applicant as readable on the elected species. Accordingly claims 7-10 are withdrawn from consideration.

Applicant has identified Figure 10 as “related art” which leaves open the question of whether it constitutes “prior art” under any section of the statute. If there is some prior art publication corresponding to Figure 10 it is required in response to this action. If not, applicants are required to make it clear in the record whether or not Figure 10 (and Figure 4A) constitute prior art as to this application.

The drawings are objected to because Figures 4A, 5A and 10 should be ~~labeled~~ “Related Art” or “Prior Art” consistent with applicant's response to the clarification of prior art status required immediately above. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Applicant is required to submit a proposed drawing correction in reply to this Office action. However, formal correction of the noted defect may be deferred until after the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

The Examiner was disturbed to find a large number of Calsonic prior art published patent applications which have not been cited pursuant to applicant's duties under Rule 56. Much of this prior art shares an inventor with the current group of named inventors. Forcing the Examiner to search prior art which should have been provided

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pursuant to applicant's/ assignee's duties under Rule 56 is wasting examination time, the net result of which is that the Examiner spends less time searching the prior art that applicants/assignee are not required to provide.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 3, 4, 5, 6, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Calsonic's JP –2002-272327.

Calsonic's JP '327 shows an evaporator 12, heater 13, air mix door Dr, an air mix chamber in the area downstream of the heater and air mix door, a bypass passage over the heater and an air guide arrangement 22 (see Figures 4 and 5).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11, 12, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Calsonic's JP '327 as applied to claims 1-6 and 13 are above, and further in view of Calsonic's JP 11-5431.

Calsonic's JP '431 teaches a butterfly vent door D<sub>V</sub>(Figs 1-6) used in place if a damper D<sub>V</sub>(Fig 7). To have substituted a butterfly vent door for door 5 in Figure 2 of Calsonic's JP '327 would have been obvious to one of ordinary skill in the art to improve

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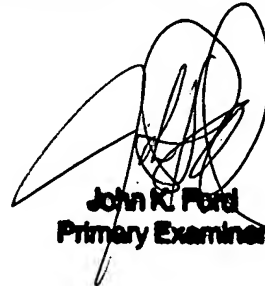
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air flow. Note JP '327 already shows a butterfly door 6 in the foot passage and the walls of the passage function as a door stopper.

Any inquiry concerning this communication should be directed to John Ford at telephone number 308-2636.

Ford/DI

February 23, 2004



**John K. Ford**  
**Primary Examiner**